UNITED STATES PATENT AND TRADEMARK OFFICE

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10/786,961	02/25/2004	David R. Clark	555255012729	4125

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EXAMINER
ADDY, ANTHONY S

ART UNIT	PAPER NUMBER
2617	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

dlpejeau@jonesday.com
portfolioprosecution@rim.com

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 October 2009*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,4-6,16,48-50 and 53* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,4-6,16,48-50 and 53* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____ .

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

1.   This action is in response to applicant's amendment filed on October 22, 2009. Claims 1,

4-6, 16, 48, 49, 50 and 53 are pending in the present application.

Response to Arguments

2.   Applicant's arguments with respect to **claims 1, 4-6, 16, 48, 49, 50** and **53** have been

considered but are moot in view of the new ground(s) of rejection. Arguments are directed to

newly added limitations and the new ground(s) of rejection based on the newly added limitations

follow below.

Claim Rejections - 35 USC § 103

3.   The text of those sections of Title 35, U.S. Code not included in this action can be found

in a prior Office action.

4.   **Claims 1, 4-6, 16, 48, 49, 50** and **53** are rejected under 35 U.S.C. 103(a) as being

unpatentable over **Vasudevan, U.S. Publication Number 20040192282 A1 (hereinafter**

Vasudevan) in view of **Mathur, U.S. Patent Number 5,008,814 (hereinafter Mathur)** and in

view of **Okonnen et al., U.S. Publication Number 2004/0243993 A1 (hereinafter Okonnen)**

and further in view of **Cheng et al., U.S. Publication Number 2003/0046676 A1 (hereinafter**

Cheng).

As to **claims 1** and **53**, Vasudevan teaches a method of updating a mobile device (*e.g.,*

mobile communication device 110) having a baseline configuration stored in a mobile device

memory (see p. 2 [0028] and p. 3 [0036]), comprising: receiving at a mobile device resource

requirements data for an update from an update management computing device, the resource

requirements data including a memory size of update data associated with the update (see p. 3

[0042]); determining whether the mobile device has a minimum amount of available memory in

the mobile device memory to store the update data by comparing the memory size of the update

data to the minimum amount of available memory in the mobile device memory (see p. 3

[0042]); if the mobile device does not have the minimum amount of available memory in the

mobile device memory to store the update data, then identifying stored mobile device data stored

in the mobile device memory that may be purged to make available the minimum amount of

available memory in the mobile device memory (see p. 4 [0047]); transmitting from the mobile

device to the update management computing device update request data requesting update data

(see p. 4 [0047]); receiving at the mobile device the update data from the update management

computing device in response to the transmitted update request data (see p. 4 [0047]).

However, Vasudevan fails to disclose updating the mobile device with the received

update data by: creating an updated mobile device configuration within the available memory of

the mobile device memory; and maintaining the baseline mobile device configuration within the

mobile device memory after creating the updated mobile device configuration within the

available memory of the mobile device memory, wherein the baseline mobile device

configuration is maintained within the mobile device memory for a period of time sufficient to

allow the updated mobile device configuration to be tested; wherein updating mobile device with

the received update data further comprises: storing an update resource in the mobile device

memory, the update resource specifying the baseline mobile device configuration and update

mobile device configuration. However, the Examiner contends this feature is very well known in the art as taught for example by Mathur.

In an analogous field of endeavor, Mathur teaches a method and apparatus for updating system management software in a communication network, comprising: updating a mobile device with the received update data by: creating an updated mobile device configuration within the available memory of the mobile device memory (see col. 6, lines 3-10 and Fig. 2; *step 204*); maintaining the baseline mobile device configuration within the mobile device memory after creating the updated mobile device configuration within the available memory of the mobile device memory, wherein the baseline mobile device configuration is maintained within the mobile device memory for a period of time sufficient to allow the updated mobile device configuration to be tested (see col. 7, line 45 through col. 8, line 23 and Fig. 2; *steps 207-211*); and accepting the updated mobile device configuration or reverting to the baseline mobile device configuration (see *Mathur,* col. 7, lines 31-63, col. 9, lines 20-30 and Fig. 2; *steps 208 & 210*). Mathur further teaches maintaining an old and new version of the system software within the non-volatile storage device (see *Mathur*, col. 6, lines 3-10 and col. 7, lines 45-63), which reads on the claimed limitations of "storing an update resource in the mobile device memory, the update resource specifying the baseline mobile device configuration and update mobile device configuration."

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Vasudevan with the teachings of Mathur to include a method of updating the mobile device with the received update data by: creating an updated mobile device configuration within the available memory of the mobile device memory; and maintaining the baseline mobile

device configuration within the mobile device memory after creating the updated mobile device

configuration within the available memory of the mobile device memory, wherein the baseline

mobile device configuration is maintained within the mobile device memory for a period of time

sufficient to allow the updated mobile device configuration to be tested, in order to easily update

system management software in a communication device from a current code version to a latest

updated code version, and verifying at the communication device, to determine whether it

received an appropriate update package before applying the update package to the existing

version of firmware and/or software in the communication device as per the teachings of Mathur

(see abstract, col. 2, lines 7-27 and Fig. 2).

Vasudevan in view of Mathur fails to explicitly teach determining whether an update

resource is stored in the mobile device memory during an initialization of the mobile device;

upon determining that the update resource is stored in the mobile device memory during an

initialization of the mobile device, prompting a mobile device user to select between the baseline

mobile device configuration and the updated mobile device configuration; and accepting the

updated mobile device configuration if the user selects the updated mobile device configuration;

and reverting to the baseline mobile device configuration based if the user selects the baseline

mobile device configuration.

Okonnen teaches updating software/firmware in a mobile handset, wherein the mobile

handset may display a list of available update agents to an end-user and solicit selection of an

update agent to be used to update at least one of software and firmware (see p. 4 [0055]).

According to Okonnen, the mobile handset may detect an update to firmware/software when the

mobile handset powers up or is rebooted (*i.e., reads on the initialization of a mobile device as*

claimed), and the mobile handset may determine the list of available and provisioned update

agents to display to the end-user to allow the end-user to select one of the update agents to

perform an update (see p. 4 [0057-0058]). Okonnen further teaches based on the selection by the

end-user, an update to a particular firmware, software, hardware configuration, etc., in the

mobile handset is performed (see p. 4 [0058-0059]).

It would therefore have been obvious to one of ordinary skill in the art at the time of the

invention to modify Vasudevan and Mathur with the teachings of Okonnen to include a method,

wherein upon determining that the update resource is stored in the mobile device memory during

an initialization of the mobile device, prompting a mobile device user to select one of the

baseline mobile device configuration or updated mobile device configuration; and accepting the

updated mobile device configuration if the user selects the updated mobile device configuration,

in order to enable an end-user of a mobile handset to select for processing updates and applying

firmware, software, and hardware configuration updates, and selecting an update agent from a

plurality of available update agents based upon evaluated criteria, such as the type of the update

to be performed as taught by Okonnen (see p. 5 [0077]).

The combination of Vasudevan, Mathur, and Okonnen fails to explicitly teach selecting

between a baseline mobile configuration and an updated mobile device configuration and

reverting to the baseline mobile device configuration based if the user selects the baseline mobile

device configuration.

In an analogous field of endeavor, Cheng teaches at some subsequent point, a user may

decide and may use a recovery feature of a client application to undo a previous software

installation , for example due to dissatisfaction with the software product (see p. 5 [0061]).

According to Cheng, the user interface includes a field indicating the previous update to be removed as selected by the user, along with an information window describing the software update, and the user confirms the removal of the software update by selecting the undo button (see p. 5 [0061]). Cheng further teaches using the archived information created by the install monitor during installation of the product, the client computer is restored to its configuration immediately before the installation of the product (see p. 5 [0061]).

It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to modify Vasudevan, Mathur and Okonnen with the teachings of Cheng to include a method of selecting between a baseline mobile configuration and an updated mobile device configuration and reverting to the baseline mobile device configuration based if the user selects the baseline mobile device configuration, in order to provide the benefit of reverting a current application configuration setting to a previous configuration setting in the event of a failure or dissatisfaction with a software product as taught by Cheng (see p. 5 [0061]).

As to **claim 4**, the combination of Vasudevan, Mathur, Okonnen and Cheng teaches all the limitations of claim 1. The combination of Vasudevan, Mathur, Okonnen and Cheng further teaches a method, further comprising: upon identifying stored mobile device data stored in the mobile device memory that may be purged to make available the minimum amount of available memory in the mobile device memory (see *Vasudevan*, p. 4 [0047]): determining whether the identified stored mobile device data is stored on a remote storage device operable to communicate with the mobile device over a communication network (see *Vasudevan*, p. 4 [0047]); upon determining that the identified stored mobile device data is not stored on the remote storage device, transmitting the identified stored mobile device data to the remote storage

device for storage (see *Vasudevan*, p. 4 [0047]); and purging the identified stored mobile device data from the mobile device memory (see *Vasudevan*, p. 4 [0047]).

As to **claim 5**, the combination of Vasudevan, Mathur, Okonnen and Cheng teaches all the limitations of claim 4. The combination of Vasudevan, Mathur, Okonnen and Cheng further teaches a method, further comprising: updating the mobile device with the received update data (see *Vasudevan*, p. 3 [0042 & 0044]); transmitting a request from the mobile device to the remote storage device for transmission of the identified stored mobile device data from the remote storage device to the mobile device (see *Vasudevan*, p. 3 [0036-0038 & 0043]); receiving the identified stored mobile device data from the remote storage device in response to the transmitted request (see *Vasudevan*, p. 3 [0040, 0043-0044]); and storing the identified stored mobile device data in the mobile device memory (see *Vasudevan*, p. 3 [0043-0044]).

As to **claim 6**, the combination of Vasudevan, Mathur, Okonnen and Cheng teaches all the limitations of claim 5. The combination of Vasudevan, Mathur, Okonnen and Cheng further teaches a method, wherein the remote storage device comprises the update management computing device (see *Vasudevan*, p. 5 [0054]).

As to **claim 16**, the combination of Vasudevan, Mathur, Okonnen and Cheng teaches all the limitations of claim 1. The combination of Vasudevan, Mathur, Okonnen and Cheng further teaches a method, wherein updating the mobile device with the received update data further comprises copy-on-write of stored baseline configuration data stored into the available memory of the mobile device (see *Vasudevan*, p. 4 [0047] and *Mathur*, col. 5, lines 48-60, col. 6, lines 3-23 and Fig. 2).

As to **claim 48**, Vasudevan teaches a mobile device having a baseline configuration

stored in a mobile device memory (*e.g., mobile communication device 110*) (see p. 2 [0028] and

p. 3 [0036]), comprising: means for receiving resource requirements data for an update from an

update management computing device, the resource requirements data including a memory size

of update data associated with the update (see p. 3 [0042] [*i.e., It is inherent the mobile device

includes a transceiver for communicating with the DA server to receive software updates*]);

means for determining whether the mobile device has a minimum amount of available memory

in the mobile device memory to store the update data by comparing the memory size of the

update data to the minimum amount of available memory in the mobile device memory (see p. 3

[0042-0043] and p. 4 [0047]); means, responsive to the mobile device not having the minimum

amount of available memory in the mobile device memory to store the update data, for

identifying stored mobile device data stored in the mobile device memory that may be purged to

make available the minimum amount of available memory in the mobile device memory (see p. 3

[0042-0043] and p. 4 [0047]); means for transmitting from to the update management computing

device update request data requesting update data (see p. 4 [0047]); means for receiving at the

mobile device the update data from the update management computing device in response to the

transmitted update request data (see p. 4 [0047]).

However, Vasudevan fails to disclose means for updating the mobile device with the

received update data by: creating an updated mobile device configuration within the available

memory of the mobile device memory; and maintaining the baseline mobile device configuration

within the mobile device memory after creating the updated mobile device configuration within

the available memory of the mobile device memory, wherein the baseline mobile device

configuration is maintained within the mobile device memory for a period of time sufficient to

allow the updated mobile device configuration to be tested; wherein the means for updating the

mobile device with the received update data further comprises: means for storing an update

resource in the mobile device memory, the update resource specifying the baseline mobile device

configuration and update mobile device configuration. However, the Examiner contends this

feature is very well known in the art as taught for example by Mathur.

In an analogous field of endeavor, Mathur teaches a method and apparatus for updating

system management software in a communication network, comprising: updating a mobile

device with the received update data by: creating an updated mobile device configuration within

the available memory of the mobile device memory (see col. 6, lines 3-10 and Fig. 2; *step 204*);

and maintaining the baseline mobile device configuration within the mobile device memory after

creating the updated mobile device configuration within the available memory of the mobile

device memory, wherein the baseline mobile device configuration is maintained within the

mobile device memory for a period of time sufficient to allow the updated mobile device

configuration to be tested (see col. 7, line 45 through col. 8, line 23 and Fig. 2; *steps 207-211*);

and accepting the updated mobile device configuration or reverting to the baseline mobile device

configuration (see *Mathur,* col. 7, lines 31-63, col. 9, lines 20-30 and Fig. 2; *steps 208 & 210*).

Mathur further teaches maintaining an old and new version of the system software within the

non-volatile storage device (see *Mathur*, col. 6, lines 3-10 and col. 7, lines 45-63), which reads

on the claimed limitations of "storing an update resource in the mobile device memory, the

update resource specifying the baseline mobile device configuration and update mobile device

configuration."

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the

invention to modify Vasudevan with the teachings of Mathur to include a mobile device,

comprising: means for updating the mobile device with the received update data by: creating an

updated mobile device configuration within the available memory of the mobile device memory;

and maintaining the baseline mobile device configuration within the mobile device memory after

creating the updated mobile device configuration within the available memory of the mobile

device memory, wherein the baseline mobile device configuration is maintained within the

mobile device memory for a period of time sufficient to allow the updated mobile device

configuration to be tested, in order to easily update system management software in a

communication device from a current code version to a latest updated code version, and

verifying at the communication device, to determine whether it received an appropriate update

package before applying the update package to the existing version of firmware and/or software

in the communication device as per the teachings of Mathur (see abstract, col. 2, lines 7-27 and

Fig. 2).

Vasudevan in view of Mathur fails to explicitly teach means for determining whether an

update resource is stored in the mobile device memory during an initialization of the mobile

device; means, responsive to determining that the update resource is stored in the mobile device

memory during an initialization of the mobile device, for prompting a mobile device user to

select between the baseline mobile device configuration and the updated mobile device

configuration; and means for accepting the updated mobile device configuration if the user

selects the updated mobile device configuration and for reverting to the baseline mobile device

configuration based on the user selection if the user selects the baseline mobile device

configuration.

In an analogous field of endeavor, Okonnen teaches updating software/firmware in a

mobile handset, wherein the mobile handset may display a list of available update agents to an

end-user and solicit selection of an update agent to be used to update at least one of software and

firmware (see p. 4 [0055]). According to Okonnen, the mobile handset may detect an update to

firmware/software when the mobile handset powers up or is rebooted (*i.e., reads on the*

initialization of a mobile device as claimed), and the mobile handset may determine the list of

available and provisioned update agents to display to the end-user to allow the end-user to select

one of the update agents to perform an update (see p. 4 [0057-0058]). Okonnen further teaches

based on the selection by the end-user, an update to a particular firmware, software, hardware

configuration, etc., in the mobile handset is performed (see p. 4 [0058-0059]).

It would therefore have been obvious to one of ordinary skill in the art at the time of the

invention to modify Vasudevan and Mathur with the teachings of Okonnen to include a mobile

device, comprising: means for determining whether an update resource is stored in the mobile

device memory during an initialization of the mobile device; means, responsive to determining

that the update resource is stored in the mobile device memory during an initialization of the

mobile device, for prompting a mobile device user to select one of the baseline mobile device

configuration or updated mobile device configuration; and means for accepting the updated

mobile device configuration or reverting to the baseline mobile device configuration based on

the user selection, in order to enable an end-user of a mobile handset to select for processing

updates and applying firmware, software, and hardware configuration updates, and selecting an

update agent from a plurality of available update agents based upon evaluated criteria, such as

the type of the update to be performed as taught by Okonnen (see p. 5 [0077]).

The combination of Vasudevan, Mathur, and Okonnen fails to explicitly teach selecting

between a baseline mobile configuration and an updated mobile device configuration and means

for reverting to the baseline mobile device configuration based if the user selects the baseline

mobile device configuration.

In an analogous field of endeavor, Cheng teaches at some subsequent point, a user may

decide and may use a recovery feature of a client application to undo a previous software

installation , for example due to dissatisfaction with the software product (see p. 5 [0061]).

According to Cheng, the user interface includes a field indicating the previous update to be

removed as selected by the user, along with an information window describing the software

update, and the user confirms the removal of the software update by selecting the undo button

(see p. 5 [0061]). Cheng further teaches using the archived information created by the install

monitor during installation of the product, the client computer is restored to its configuration

immediately before the installation of the product (see p. 5 [0061]).

It would therefore have been obvious to one of ordinary skill in the art at the time of the

invention to modify Vasudevan, Mathur and Okonnen with the teachings of Cheng, in order to

provide the benefit of reverting a current application configuration setting to a previous

configuration setting in the event of a failure or dissatisfaction with a software product as taught

by Cheng (see p. 5 [0061]).

As to **claim 49**, the combination of Vasudevan, Mathur, Okonnen and Cheng teaches all

the limitations of claim 48. The combination of Vasudevan, Mathur, Okonnen and Cheng

further teaches a mobile device, further comprising: means **(LRM)**, responsive identifying stored

mobile device data stored in the mobile device memory that may be purged to make available the

minimum amount of available memory in the mobile device memory (see *Vasudevan*, p. 4

[0047]), for determining whether the identified stored mobile device data is stored on a remote

storage device operable to communicate with the mobile device over a communication network

(see *Vasudevan*, p. 4 [0047]); means **(LRM)**, response to determining that the identified stored

mobile device data is not stored on the remote storage device, transmitting the identified stored

mobile device data to the remote storage device for storage (see *Vasudevan*, p. 4 [0047]), and for

purging the identified stored mobile device data from the mobile device memory (see

Vasudevan, p. 4 [0047]).

As to **claim 50**, the combination of Vasudevan, Mathur, Okonnen and Cheng teaches all

the limitations of claim 49. The combination of Vasudevan, Mathur, Okonnen and Cheng further

teaches a mobile device, further comprising: means for transmitting a request from the mobile

device to the remote storage device for transmission of the identified stored mobile device data

from the remote storage device to the mobile device (see *Vasudevan*, p. 3 [0036-0038 & 0043]);

means for receiving the identified stored mobile device data from the remote storage device in

response to the transmitted request (see *Vasudevan*, p. 3 [0040, 0043-0044]); and means for

storing the identified stored mobile device data in the mobile device memory (see *Vasudevan*, p.

3 [0043-0044]).

Conclusion

5.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

Marolia et al., U.S. Patent Number 7,480,907 discloses mobile services network for

update of firmware/software in mobile handsets.

Dalton et al., U.S. Publication Number 2004/0192280 A1 discloses system for updating

application software of data acquisition devices.

Peev et al., U.S. Patent Number 6,993,760 discloses installing software on a mobile

computing device using the rollback and security features of a configuration manager.

Homiller, U.S. Publication Number 2004/0237081 A1 discloses methods and apparatus

for generating upgraded software from initial software and software upgrade packages.

Randall et al., U.S. Publication Number 2005/0132351 A1 discloses updating electronic

device software employing rollback.

6.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

7.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to ANTHONY S. ADDY whose telephone number is (571)272-

7795. The examiner can normally be reached on Mon-Thur 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Patrick Edouard can be reached on 571-272-7603. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. S. A./
Examiner, Art Unit 2617

/Patrick N. Edouard/
Supervisory Patent Examiner, Art Unit 2617